

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0555P

**Gross Income Tax
Calendar Years 1994, 1995, and 1996**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is incorporated in Delaware and has Indiana resident employees performing marketing service.

Taxpayer was audited for calendar years 1994, 1995, and 1996 that resulted in assessments to service income at the high rate of tax. Taxpayer filed IT-20 returns with no tax due.

I. **Tax Administration** –Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty for failure to report service receipts.

Taxpayer, in a letter dated September 2, 1998 protested penalties assessed because it puts forth a good faith effort to file properly in all tax jurisdictions. In particular, the additional tax found to be due as a result of the audit was primarily due to an interpretation of the law. The company merely acted as a payroll conduit for a partnership and the monies collected were 100% paid out as compensation. As nothing more than such an arrangement, the taxpayer did not believe that it had a gross receipts tax exposure. Taxpayer requests a waiver, as its failure to pay the tax due was not due to willful neglect.

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The Indiana Code, Regulations and instructions for filing the IT-20 return are clear regarding the issue, therefore, the department finds that a negligence penalty is proper.

FINDING

Taxpayer's protest is denied.